

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MATTHEW CATANZARO, MICHAEL
GARRISON,

Plaintiffs,

v.

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al,

Defendants.

Case Number 08-11173
Honorable Thomas L. Ludington
Magistrate Judge R. Steven Whalen

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING
DEFENDANT HART'S MOTION TO DISMISS PLAINTIFF GARRISON'S CLAIMS
FROM THE COMPLAINT**

This matter is before the Court on a report and recommendation issued by Magistrate Judge R. Steven Whalen on August 31, 2009. The magistrate judge recommends that the Court deny Defendant Vercilla Hart's motion to dismiss Plaintiff Garrison's claims from the complaint [Dkt. # 84] because the Sixth Circuit has vacated the judgment, upon which Defendant's motion relied, enjoining Plaintiff Garrison from filing or participating in certain civil actions. As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [Dkt. # 125] is **ADOPTED**.

It is further **ORDERED** that Defendant Hart's motion to dismiss Plaintiff Garrison's claims from the complaint [Dkt. # 84] is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: November 17, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 17, 2009.

s/Tracy A. Jacobs
TRACY A. JACOBS